

University of Tennessee Law

## Legal Scholarship Repository: A Service of the Joel A. Katz Library

---

The Advocate

Historic Collections

---

Winter 2012

### **The Advocate Winter 2012**

University of Tennessee College of Law

Follow this and additional works at: [https://ir.law.utk.edu/utk\\_theadvocate](https://ir.law.utk.edu/utk_theadvocate)

---



University of Tennessee, Knoxville  
**Trace: Tennessee Research and Creative  
Exchange**

---

The Advocate (2006 - 2012)

College of Law Communications and Publications

---

Winter 2012

## The Advocate Winter 2012

The University of Tennessee College of Law's Center for Advocacy & Dispute Resolution

Follow this and additional works at: [http://trace.tennessee.edu/utk\\_theadvocate](http://trace.tennessee.edu/utk_theadvocate)



Part of the [Law Commons](#)

---

### Recommended Citation

The University of Tennessee College of Law's Center for Advocacy & Dispute Resolution, "The Advocate Winter 2012" (2012). *The Advocate (2006 - 2012)*.

[http://trace.tennessee.edu/utk\\_theadvocate/1](http://trace.tennessee.edu/utk_theadvocate/1)

This Newsletter is brought to you for free and open access by the College of Law Communications and Publications at Trace: Tennessee Research and Creative Exchange. It has been accepted for inclusion in The Advocate (2006 - 2012) by an authorized administrator of Trace: Tennessee Research and Creative Exchange. For more information, please contact [trace@utk.edu](mailto:trace@utk.edu).

CENTER FOR ADVOCACY  
& DISPUTE RESOLUTION

"Educating Today the  
Successful Lawyers  
of Tomorrow"

# the Advocate



## Learning by Doing—

## Externships and Clinics, Real Clients and Real Courts

After David Segal's *The New York Times* article hit the blogosphere, it circulated quickly among University of Tennessee, Knoxville, law faculty, many of whom reacted in conversations and emails. The almost universal response was that the author ought to visit the UT College of Law before drawing such broad conclusions that law schools don't teach students how to practice law. Some suggested that we invite the author to visit, while others lamented that while the big schools clearly don't get it, we do.

So the obvious question is: If we think that the UT College of Law does not fit the mold of law schools that fail to prepare their graduates for practice, are we right? Or, are we just blissfully ignorant about our own failings? While perhaps those who employ our graduates are in a better position to answer that question, this edition of the *Advocate* sets out to provide some answers to two related questions: What do we do to prepare our students to be real lawyers? What opportunities do our grads have that graduates of other law schools may not have?

Almost all of those who graduate from the UT College of Law represent or assist in representing live clients before they leave. Students participate in a range of clinical programs within the law school, but more and more also extern outside the law school, working in state and federal prosecutors' and public defenders' offices and engaging in field placements in a range of governmental, public and private offices.

Read the thoughts of students Brennan Wingerter and Michael Malone as they share how "learning by doing" has enhanced their experiences at the College of Law. *continued on next page*

## Learning By Example—

## Observing and Learning from Lawyers and Judges in Action

In addition to representing real clients in real courts, College of Law students have many opportunities to witness lawyers and judges in action. More than 30 lawyers and judges teach courses in the advocacy and dispute resolution concentration, while others visit to judge moot court competitions and give presentations.

In this year's Practice Series, students heard from William Killian, the U.S. Attorney for the Eastern District of Tennessee; Mary Kennedy, the training director for a large Washington, D.C., law firm; Albert Herring, the former deputy chief of the Felony Trial Section for the U.S. Attorney's Office in the District of Columbia; and Mike Okun, a labor lawyer who has represented local unions affiliated with more than two dozen international unions in hundreds of arbitrations and contract negotiations across the Southeast.

Interested students also had the opportunity to compete in Advocates' Prize, an internal moot court competition that was judged by six federal appellate judges. *continued on page four*

THE UNIVERSITY of  
TENNESSEE **UT**  
KNOXVILLE College of Law

# in this issue

- |                                       |                             |
|---------------------------------------|-----------------------------|
| 2 Learning by Doing—Michael Malone    | 10 Focus on Adjunct Faculty |
| 3 Learning by Doing—Brennan Wingerter | 11 Focus on Center Friends  |
| 5 Practice Series Speakers            | 12 Director's Dicta         |
| 6 Moot Court                          | 12 Upcoming Events          |

**Michael Malone** is a second-year student who completed a summer field placement at the District Attorney General's Office in murder prosecution



**When I received an** offer to do a field placement at the District Attorney General's Office in Nashville, I knew it was an outstanding opportunity. I had interned at a DA's office before as a 1L, but my role was mostly to serve as a researcher and clerical assistant. The scarce time in court was limited to observation. As a 2L, I was certified to participate

in court proceedings with supervision so I hoped my time in Nashville would be different. Never in my wildest dreams did I imagine that I would participate in a first-degree murder trial, but at the end of the summer, I had the honor and privilege to do just that.

Throughout the summer, I participated in numerous court proceedings, primarily conducting preliminary and probation violation hearings. While these are routine and often uneventful for the experienced practitioner, I was nervous before each one. I worried about conforming to the formalities in each courtroom and learning the technical lingo that you don't always get in law school.

I worried, as I'm sure most law students and young attorneys do, about making a mistake. While these worries remained in the back of my mind, I was fortunate enough to work with an incredible group of supervising attorneys. Each one took time to explain what was going on, or what I was supposed to do next. Eventually, I was less nervous and things began to feel more routine. By the end of the summer, I felt more confident and ready to begin my career.

As my last week was nearing an end, my supervisor approached me and asked how I would feel about sitting second chair in a trial with him. I was scheduled to try a relatively simple case on my own earlier in the summer but, as I learned was common, it was continued until after the end of my field placement. Excited about the chance to get some time in trial, I happily accepted. When I found out which case it was, I was even more thrilled.

It was a cold case murder I had researched earlier in the summer, so I was familiar with the details. A man in west Nashville had been fatally shot in 2004. The police had suspects, but not enough evidence for the state to proceed. Five years later, there

was a major development. The defendant, who had been the primary suspect early in the investigation, had his estranged wife arrested for violating a restraining order.

When the police took her into custody, she told them that her husband had committed the murder. In an interview with detectives, she explained how the defendant had committed the murder and had later taken her with him to dispose of the gun. With this new evidence and with additional circumstantial evidence connecting the defendant and the victim, the state was able to file charges and proceed with the case. Unfortunately, there was very little physical evidence and many potential witnesses were uncooperative. It would be a tough case, but my supervisor was up to the challenge.

Prior to the trial, I asked about my potential responsibilities in order to prepare as thoroughly as I could. I was told that I would mostly be supporting my supervisor by taking notes, helping with exhibits, etc. I was comfortable with this. It was an opportunity to be involved in a trial, and I could not reasonably expect to have a major role in a case as serious as this one. I spent the weekend before the trial going through the file and making sure I knew it well. I didn't worry about any other specific preparation.

On Monday morning, I arrived in court ready to go. For a law student with limited real experience, even the seemingly mundane parts of trial are exciting. I was fascinated by voir dire. I was given a list of potential jurors to follow along, and I took copious notes. I gave my opinion on which jurors to strike and which I felt good about. I learned about other considerations and why the attorneys made the selections they did. Since jury selection is not a topic covered in most law school courses, I found this to be one of the most interesting and educational experiences of my field placement. I had seen voir dire a few times, but this time I had a front row seat and the ability to participate and ask my supervisor questions. This was a great experience, but little did I know, there was more to come.

During a short recess that followed jury selection, my supervisor asked whether I wanted to "handle the crime scene investigator?" I was unsure how to respond. First, I clarified that by "handle" he was referring to the direct examination. It was hard for me to fathom being given this responsibility for a murder case, where crime scene evidence is so important. But once I knew he was offering me the opportunity, I happily agreed. On one hand,

I was ecstatic. I couldn't believe I was going to do a direct in a murder case, much less that it would be one of the State's most important witnesses. On the other hand, I was nervous for the exact same reasons.

Other than discussing which exhibits would be introduced, the rest was left to me. I frantically outlined a direct examination and put the exhibits in order. During a lunch recess, I reviewed the points with the crime scene officer. By the end of the conversation, I felt much more comfortable. When court reconvened, I stood up and called my witness. At that point, reality set in. This was real. I was actually in a real trial, in which a man was being prosecuted for murder.

While my mind was racing at the thought of the magnitude of this occasion, for myself and for the defendant, I knew I had to stay focused and poised. I went through my direct, hitting all of the points I knew were important. I introduced many exhibits, which, as it turned out, ended up being almost all of the state's physical evidence.

I had taken Trial Practice in the fall of the previous year. I had not participated in any mock trial of any kind since then. I was worried about my ability to go through the formalities of introducing evidence, but it came back to me almost instantaneously. When I finished with the witness and sat down, I felt a tremendous sense of pride. No matter the outcome of the case, I had just participated in my first real trial.

After both sides rested, I had my first experience of waiting for a jury to reach a verdict. Even though my role had been minor, I felt invested in the case. I had seen how hard my supervisor had worked, and I wanted a positive outcome for him. I felt the uneasiness present in the office during deliberations, and the wave of anxiety that hit upon learning that the jury had reached a verdict. At the end of the day, I experienced the indescribable feeling of hearing the words, "not guilty."

After the trial, we were allowed to speak with the jury. This was probably the most valuable part of the experience for me. The jurors explained that they thought the defendant had probably committed the crime, but that they felt unable to convict him without more physical evidence. One juror said he was not "100 percent sure" that the defendant was guilty. The jurors complimented the case presentation, but ultimately could not convict.

The result was not surprising given the limited nature and extent of the evidence, but I couldn't help but feel disappointed. The disappointment did not detract from the value of the experience, however. The experience had provided a wonderful opportunity to put the knowledge, techniques and skills learned in Trial Practice to use in a real world setting. It gave me confidence that I will hit the ground running after graduation, a better advocate than I would have been otherwise.

---

**Brennan Wingerter** is a third-year student from Louisiana, who has just completed an externship with the Federal Defender Services for the Eastern District of Tennessee.



**In all of UT's** externship programs, externs are treated as more than law clerks. Although we are expected to complete research and writing assignments, the ultimate goal is to "talk to the judge." To that end, as a Federal Defender extern, I was involved at all stages of the office's activities. I attended and participated in

court hearings, client meetings, probation interviews, jail visits, staff seminars and meetings and oral argument preparations. Externs even have the opportunity to attend the annual office retreat in Townsend,

Tenn., and accompany the Capital Habeas Unit to Tennessee's death row in Nashville.

My own externship with the Federal Defenders was one of the most rewarding experiences of my three years in law school. I gained invaluable hands-on experience that I never could have received in the classroom. I personally met with a wide variety of clients, researched interesting and controversial issues, attended numerous court hearings and represented a client at an initial appearance.

One of my most memorable experiences was leading the investigation into a client's personal, medical and social history in preparation for his sentencing hearing. I had to be creative and attentive to detail as I probed through his file, →



looking for any clues that could provide mitigating evidence at sentencing. I communicated almost daily with nearly 10 different agencies across the state in an effort to collect as many records as possible. It was not only exciting to investigate, but it was even more exciting to witness firsthand the product of my search as crucial documents slowly trickled into the office. I then used the records to draft the sentencing memorandum that would be used at the client's hearing.

One of the most influential experiences of my externship occurred during a visit to Tennessee's death row. I accompanied an attorney and investigator to visit two clients with two very different stories. It was not until the ride back to the office that I was able to appreciate the importance of our visit. Unlike the numerous other client meetings I had attended, we did not talk to the death row clients about case strategy or preparation, or really even their cases at all. Instead, we discussed baseball stats and football scores, they told jokes, and we told them a little about our own lives. It was much more of a social visit, and we were probably the only people from the outside world

that they would see for months. Often, I think it is too easy for law students to read a case as mere words on a page, but my semester with the Federal Defenders reminded me once again that the cases we read involve real human beings with real stories and real lives.

I think that is the ultimate difference between an externship and a classroom course—the externship prepares you for reality. In our classes we discuss theory, principles and past decisions. In an externship, you actually use these tools to complete a project, to write a memo or to argue for changes in the law. While classroom courses tend to focus on the building blocks of law, the externship programs give law students a chance to build something of their own. I was able to take what I learned in my classes and actually practice legal research and writing, professionalism and advocacy—all at the same time and without sitting in a classroom. In this way, an externship can serve as a good reminder of why we came to law school in the first place.

### Learning By Example *(continued from front page)*

## U.S. Attorney Bill Killian Offers Simple, but Successful Advice

**William “Bill” Killian**, U.S. Attorney for the 41 counties in the Eastern District of Tennessee, told students that he listens to Tom Petty's “I Won't Back Down” before a big trial. Third-year law student, Brandon Pettes, who introduced



Killian, told the audience no lyrics could more appropriately describe the drive and determination that took Killian from small-town attorney to the chief law enforcement officer in the Eastern District.

Killian generously shared his time and his philosophy of life and law with law students who filled the room to hear him talk about his present position and his career. His mes-

sage was straightforward and understandable—fundamental fairness. Whether choosing evenly matched teams in neighborhood baseball games as a boy in South Pittsburgh, Tenn., or carrying out his duties as the chief law enforcement officer in the Eastern District, Killian believes that being fair just makes good common sense.

“But, common sense isn't all that common anymore,” he quipped.

Despite his rigorous schedule, Killian makes his presence felt to all 103 attorneys and student law clerks in his network of offices. Supervising the talented AUSAs is a labor of love for Killian and it shows when he talks about them. His philosophy toward his work is as humble as his East Tennessee roots, but it is profound in its simplicity.

“These attorneys [make up] the most capable group I've ever worked with...If I didn't believe they could do the work without constant supervision, it'd be time to hire new attorneys.”

Selflessness,—for years he drove from Jasper to Knoxville to

teach Trial Practice each week—humility, and sound principles may have catapulted Killian from small town solo practitioner to his current job, but his knowledge and experience have produced the results his office has achieved during his tenure. Various grassroots initiatives designed to address everything from the proliferation of illicit prescription drugs to health care fraud have experienced increased success with Killian at the helm. During his presentation for the College of Law, Killian beamed as he showed how his office’s \$7 million

operating budget was dwarfed by the amount the office has collected in civil fines and forfeitures.

“Always do the right thing,” he urged his audience before closing. “And, if you don’t know what the right thing is, ask somebody!”

It was only fitting that he would end on such a note because for Killian, it’s all about fundamental fairness.

---

## Practice Series



**ALBERT HERRING.** After hearing Albert Herring’s introduction—Deputy Chief of Homicide, Special Assistant to the U.S. Parole Commission, Assistant Counsel with the Office of Professional Responsibility in the Department of Justice—one might have expected a formal, stiff presentation, but instead students received a truly unique and insightful experience when he dropped all pretenses and asked us to challenge him. Responding candidly to every question posed, he talked about his initial overarching goal of convicting criminals, the insight he gained from working with the Parole Commission, and the epiphany that inspired his later efforts as an advocate coordinating youth violence reduction initiatives, gang reduction strategies, and community outreach and engagement programs. Students walked away with a holistic view of criminal prosecution, which highlighted not only punishment and deterrence, but prevention and rehabilitation.



**MARY KENNEDY.** When Mary Kennedy came to speak to the law school regarding trial skills she brought more than experience from her 20 years of litigation, she also brought a keen sense of humor and relentless passion for criminal defense work. The essential trial skills that she discussed came to life as she interspersed humorous and sometimes shocking anecdotes from her own experiences as a public defender and a private criminal defense attorney practicing in the federal and local courts in the District of Columbia. Her dedication to indigent and criminal defense was tangible and communicated to the audience the absolute necessity of skilled lawyers in defense work. As she spoke, students witnessed a perfect example of the dynamism and confidence that make a great trial lawyer.



**MIKE OKUN.** As arbitrations become more prominent as a means of resolving disputes, students need to understand that presenting a case to an arbitrator is different and in some ways more challenging than presenting a case to a court. Prominent among those differences are the absence of rules of evidence and the lack of opportunity for formal discovery. This was part of the message delivered to students and practitioners alike by Visiting Professor Mike Okun when he spoke at the College of Law about how to transform advocacy skills into arbitration skills. A labor and employment lawyer in North Carolina, Okun has tried hundreds of arbitration cases on behalf of dozens of unions and has argued labor and employment cases in five federal circuit courts of appeal. He spoke about his experiences as a labor lawyer and as a consultant for the American Bar Association and the Free Trade Union Institute in Belarus, Lithuania, and Russia.

## MOOT COURT

### *No Real Clients, but a Very Real Court*



In October 2011, the Moot Court Board hosted its annual Advocates' Prize competition and welcomed six judges from the U.S. Court of Appeals for the Sixth Circuit to campus. Four lucky students had the once-in-a-lifetime experience of representing a not-so-real client in front of a very real court of veteran federal judges. Read below about the experiences of winners Jessica Johnson and Mitchell Panter, as well as Samuel Moore and Austin Kupke, who placed second.

#### **AUSTIN KUPKE, CLASS OF 2012**

"May it please the Court, my name is Austin Kupke, and I, along with my co-counsel Samuel Moore, represent the United States government."

Per several professors' and attorneys' advice, if I could memorize this line and grow accustomed to saying it without stuttering or looking at my notes, I would flow more easily into my introduction and argument. I would need that comfort as each night preparing for competition I was nervous and wondered if I would be able to transition forcefully from argument to argument while fielding the judges' questions.

"May it please the Court..." echoed over and over again as a talisman of sorts, something that would ground me, something I could predict.

What I realized preparing for and competing in the Advocates Prize, was that oral argument was more

in my control than I originally thought. Beginning the appellate brief was the first step: starting with a blank slate and only a superficial understanding of the legal issue I was writing about—what were the most compelling arguments both for and against my position? What were the policy implications? What similar issues have been decided before, and how were they decided? These were the questions that informed my legal research and eventually fleshed out the content of my section of the brief, and they would be the same questions a panel of judges would want answered.

With my appellate brief in hand, the next step was getting creative. The neatly organized and flowing headings and subheadings of my brief would not be a feasible structure for the oral argument, I realized. One judge may begin with a question on



the creation and history of the Federal Rules of Evidence and their common law exceptions (the starting point of my brief), but the next judge could easily pose a hypothetical related to the case immediately at hand, and I wonder why there should not be an exception in this specific case.



I needed to know my issue and its nuances so well that I could pick right back up where I was before the question. Thus, even though I could have my brief, any outline of the brief, and whatever notes I wanted at the podium, I had to thoroughly know and command my arguments—and the other side’s arguments—with depth and confidence. This would help me anticipate the obvious or expected questions and prepare me, as much as possible, for the curve balls. But I still wasn’t ready.

After being completely up in my head with legal research, the brief and the possible issue differentiations during

oral argument, I had to remember to breathe and speak conversationally. I couldn’t stand at the podium, address the Court, and then bow my head and read. I couldn’t be flat, rude, or cursory. I knew from my Legal Profession II course my first year of law school, in which we had to execute an oral argument against a classmate before a panel of judges, that if I did these things, the force of my argument would be squandered. I needed to connect with the judges, look them in the eye, and relate.

Jason Long, a local attorney in Knoxville, spoke to this in one of the mandatory training sessions

the competitors in Advocates’ Prize attended in preparation for the event. He said simply “Don’t be creepy.”

Don’t stare, don’t shout, don’t make strange movements with your limbs, but don’t feel the need to stand stock-still, either. Despite the bonanza of research, writing, memorization, and preparation I had done, in delivering the end result, I just had to be myself. And who was I again?

“May it please the Court, my name is Austin Kupke, and I, along with my co-counsel Samuel Moore, represent the United States government.”

### JESSICA JOHNSON, CLASS OF 2013

I heard about Advocates’ Prize from my partner, Mitchell Panter. He asked me if I would be interested in participating and although hesitant at first, I agreed.

I really wanted to get more experience writing an appellate brief and speaking in public. We went to the initial meeting, and I remember feeling very nervous about the idea of possibly arguing in front of the Sixth Circuit judges. I told myself, however, that we probably wouldn’t get that far.

The hardest part for me was writing the brief. I really enjoyed the assigned

topic, but I found myself doing too much research. I could have kept going, but eventually had to cut myself off and start writing. Mitchell and I each wrote one section of the brief. We have very different writing styles, so one of the things we struggled with was making the brief cohesive. One of the most stressful parts of the whole experience was finishing the formatting and editing before the deadline. We came down to the wire!

Once the brief was turned in, we turned our attention to the oral arguments. I competed in speech and debate competitions in high school and college, but had very little experience with oral arguments.

I focused my attention on learning what points I had to cover for the judges, but I didn’t write out a full speech or outline. I knew the judges were going to ask us questions, and I didn’t want to feel tied to a script.

A practice round we did in front of students before our preliminary rounds proved very helpful for me. It reminded me to approach each round as if it were a conversation with the judges rather than a debate.

I was glad to be done after the preliminary rounds. We went out to

dinner with friends to celebrate and were still in the restaurant when we got the call that we had to compete in the final round the next day! I called my parents to let them know and then headed home to prepare.

I woke up the next morning feeling excited, but nervous. I tried to look over the questions that I had been asked in the preliminary rounds and looked over my notes from those rounds as well. We spent most of the day preparing—away from everyone else.

As the judges walked in, I remember wondering if it was too late to back out. Once the round got under way, my nerves really disappeared. I was the last person to address the judges for our team, so I had gotten a chance to see what kind of questions they were asking.

The judges were very tough, but very fair. Once the round was done, I was so happy to be finished and excited at what we had accomplished.

I learned so much from Advocates’ Prize. It gave me a lot more confidence in my writing and speaking abilities, and it was an honor to compete in front of the Sixth Circuit judges.



### SAMUEL MOORE, CLASS OF 2012

My decision to compete in the Advocates' Prize competition was based mostly on the experience I had last year. Because my team did not make the final round that year, I had had several months to ruminate on the choices my partner and I made and to think about what mistakes I may have made. More than that, I thought that the actual argument rounds themselves were exhilarating and wanted another chance to attack a problem and test my abilities against my peers.

Preparing for the Advocates' Prize competition is very similar to the final assignment of the 1L Legal Process class in that you are given a fact pattern and brief appellate decision on a theoretical problem and asked to develop an argument for one side of an appeal of that decision. Where the Advocates' Prize differs is that as a 2L, or more experienced student, it is assumed that you already have the basic skills of legal research and writing, so your preparation is unsupervised.

I'm fortunate enough to go to law school in the age of online legal databases and to go to a school that teaches you how to navigate them. Once I had identified the cases upon which my part of the problem was based, it was fairly easy to find law review articles and subsequent opinions outlining the courts' decisions on these issues. The difficult thing for me was to know when to stop reading, as my binder of printed articles soon swelled to unmanageable proportions.

Getting a quality brief finished on time took more dedication than most of my classes at the college. The research was an extra burden on top of class and job obligations, and the brief was due right in the middle of football season. Also, unlike most of the work I had done in law school up to this point, with grades at stake, during the competition I was motivated by

not wanting to let my partner down in front of my fellow students or the judges.

To prepare for the preliminary oral arguments, I read over my competitor's briefs. It was reassuring to see that my brief shared many common sources with our competitors, but I was more interested to see the strongest arguments made by those writing for the opposing side. Going into argument, I wanted to have an answer for all of their arguments, or at least be able to point out any potential weakness of these arguments and direct the judges' attention back to the strengths of mine.

I also found an online archive of recordings of past Supreme Court arguments and listened to some of the arguments in the key cases on our issue. Listening to the questions posed by the justices gave me an idea of the kinds of questions raised about these issues in the past. I tried to imagine how I would answer the questions applied to my own case. It was also reassuring to hear that even at the highest level, cases are still argued by human beings who sometimes stutter and make mistakes.

Whereas the preparation and writing process components of the competition are long and arduous, the actual oral arguments are exhilarating. The argument itself moves so quickly and is so dependent on the judges' choice of questions that it is better to know your facts and key points rather than to prepare long responses to a particular line of questions.

After spending so long researching and writing, it was cathartic to have a chance to use the knowledge gained. The second round of oral argument requires you to argue off-brief on the opposing issue, something I found surprisingly easy to do. All of the potential weaknesses I had discovered and worried about during the research and writing portion of the



competition suddenly became paths of attack, and by the end of the round I wasn't sure if I had written for the right side in the beginning.

My partner and I were both celebrating the end of our obligations to the competition when we were informed that we were not yet finished. We had less than a day to prepare for the final round, which was probably just as well as I spent most of this time worrying about going before the Sixth Circuit in front of the entire college. Once I was before the panel, the competition really was fun again, and it was satisfying to find that after several weeks of research and two previous rounds, I was able to answer their questions. While my team did not win the competition, I felt very fortunate to have the opportunity to argue before the Sixth Circuit judges as a student, and am determined that when I come before the court again I will at the very least come with the same level of preparedness I did during the competition.

Several weeks after the competition, I received a DVD recording of the final round, and took it home to show my family during Thanksgiving break. My mother found the footage very hard to watch. She said she didn't enjoy watching the judges "gang up" on me, and "be mean" by asking so many questions instead of just letting me speak. They had a hard time believing that I found anything "fun" about the experience.

### MITCHELL PANTER, CLASS OF 2013

In August, the Moot Court Board announced that it soon would be holding an upcoming interest meeting for the 2011 Advocates' Prize Competition—our internal appellate moot court competition. Although I wasn't sure that I'd participate, Professor Penny White gave a sales pitch to my evidence class, reminding us that six Sixth Circuit judges had signed on to judge the final round.

At that point, I knew that I should compete because, after all, this competition was probably my one and only chance of ever arguing before a six-member panel of Sixth Circuit judges.

So, I embarked on the next step—finding the right teammate. Jessica Johnson immediately came to mind, and, much to my surprise, she agreed to let me stumble through the competition alongside her.

After officially entering the competition, we spent the next couple of weeks researching our respective portions of the argument. Unfortunately for us, however, we spent so much time researching the problem

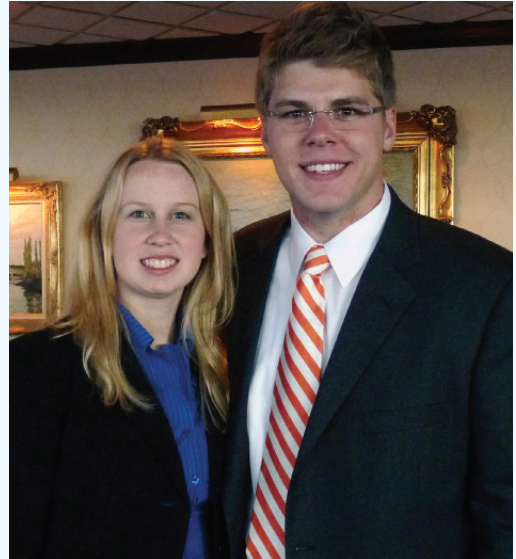


that we shortchanged ourselves on time to write the brief, leaving ourselves only a few days. Needless to say, we were forced to plow ahead, working down to the wire. After three sleepless days and 20 gallons of coffee, we completed the brief. Despite our best efforts, neither of us felt very confident about our final product, but we hoped that it would be just enough to push us through to the final round.

Not long after turning in our brief, preliminary rounds of oral arguments began. On our first night, things seemed to be going smoothly. Then, about three minutes into the argument, the most unexpected thing happened—I knocked over the makeshift lectern. As it barreled its way off the table, my reflexes kicked in and I was lucky enough to catch it before it crashed to the floor. The whole while, I kept arguing my points, and only stopped once to say, "whoops!"

When I sat down, I knew that my clumsiness would result in one of two things: first, the judges would give us some pity points; or second, I'd just gotten the lowest marks in the competition. Fortunately for us, I suppose the judges erred on the side of pity.

The next night, things went about the same (minus the lectern issues). Feeling relieved after having made it through the preliminary rounds, we all went to dinner—still not expecting an invitation to the final round. As we ate and enjoyed our newfound freedom, the phone rang. It was John Rice, the coordinator for the competition. Still uncertain about our performance, Jessica and I believed it to be merely a consolation call. Needless to say, we were surprised—well, shocked—to hear that we'd made it to the final round of the competition. As the excitement wore off, however, the anxiety set in.



I was a bundle of nerves the morning of the final rounds. Although it was an absolute honor to be able to argue in a room filled with such talented and intelligent people, it was also uncharted territory for me. To further complicate matters, as I walked to the front of the room where arguments were held, I noticed one tiny, yet unsettling detail—the organizers of the competition had brought in the very lectern that I had almost destroyed two nights earlier. Once the arguments began, it became clear that these judges were tough, pelting us with questions throughout the entire hour. My colleagues all did an excellent job, so I knew the decision would be difficult for the judges.

Surprisingly, the bench came back in our favor, and, for the first time since we officially entered the competition, I felt like the hard work had paid off. Without a doubt, this was the best experience of my law school career, and I am deeply grateful to all those who made it possible.



## Students are top priority for Trial Practice professor Elizabeth Ford

Elizabeth Ford is the federal community defender for the United States District Court for the Eastern District of Tennessee. Her three offices represent indigent defendants in the district.

In addition to her community defender responsibilities, Ford represents individuals at consent verification hearings under the International Prisoner Transfer Program. Transfer under the program requires the consent of the sentencing country, the receiving country, and the prisoner. In this capacity, she travels around the world representing individuals who have been convicted and imprisoned in foreign countries prior to their transfer to the United States. Ford represents the prisoner at the hearing. Her job is to ensure that the prisoner understands the nature of the proceeding and consents to the transfer.

Despite her hectic schedule, she has been teaching Trial Practice at the College of Law for more than a decade. Student Austin Fleming describes Ford as a terrific instructor who cares about each and every student.

“She invests time into each individual’s success and shares her own life and experiences,” Fleming says. During each class, every student is required to demonstrate a trial practice skill including witness examination, opening statement, closing argument and strategic planning. Fleming says that as each student performed the exercise, Ford listened carefully, took notes about the performance and provided detailed feedback.

Fleming says that Ford encouraged each student to give critiques so that a variety of feedback also was received. She met with students individually to address each student’s progress. “Throughout this process, Professor Ford was kind and tactful, yet she was honest,” says Fleming. “I am confident that her insight helped me to improve my trial skills and that I will continue to benefit from her feedback throughout the rest of my career.”

Will Gibbon, another student in the class, especially appreciated the individual sessions. “In addition to detailed evaluations in class, Professor Ford met with us individually on a regular basis,” he says. “She was very communicative. I got a lot out of my meetings and was able to improve each week based on her feedback.”

At the end of the semester Ford opened her home and prepared a meal for the class. “No other professor has ever done something like that for me,” Fleming says. “During the evening, she asked for our opinions about the class and conveyed her hope that we had enjoyed and benefitted from it.”

Gibbons agreed, noting that, “The invitation to her home was a very nice gesture that further illustrates how much she cares about her students.”

When he first learned that Ford was the federal defender, Fleming says he worried that she might not be able to provide a complete understanding of both sides of a case.

“In the end, she was open-minded and continuously helped both sides to develop trial theories and strategies. I learned a lot about trial practice, but I also learned more important lessons like how to treat individuals with whom I may not see eye-to-eye and how to impact people I meet in a positive way.”





## Jeff Groah: UT College of Law's 'renaissance man'

The phrase “renaissance man” is said to refer to the Greek “polymath,” which literally translates as “having learned much.” It is used to refer to a person whose expertise spans a significant number of different subject areas like Jeff Groah.

Groah is a polymath at the College of Law. He knows all things technology and is also a master planner and designer who is especially helpful when renovations are underway, making sure that technology is accommodated at a time when it is easiest to integrate. He is also a visionary, who can imagine how classrooms can be improved and rearranged to simulate courtrooms, boardrooms and offices.

He is also a logistician, simultaneously delivering equipment and arranging dozens of classrooms to meet individual professor specifications and student needs from 8 a.m. until 8 p.m. almost every day. Because advocacy and dispute resolution classes are often skills based, the students benefit greatly from observing their own digitally recorded performances, and Jeff makes this and many other things—like webcasting, video conferencing and digital archiving—possible. He is an essential and indispensable part of the program.



### WHAT OTHERS SAY

#### **United States Magistrate Judge C. Clifford Shirley**

“Whenever he comes to a Trial Practice class to give his presentation on the use of the various technologies, I always introduce him as ‘the source of all knowledge in matters of technology.’ And I tell the students that I really mean it. And I do. I’ve told Jeff that he would have made a great lawyer, as his ability to communicate complex matters in easily understood terms and his ability to relate them to examples the students understand is, in large measure, precisely what I’m trying to teach. His intellect is exceeded only by his perpetual desire to be helpful.”

#### **Assistant District Attorney Leslie Nassios**

“Jeff knows that I am incompetent with nearly every form of technology. He deals with my ineptitude in such a compassionate and professional manner that I am able to maintain some degree of dignity in front of my students. He is utterly cool.”

#### **Assistant U.S. Attorney Jeffrey Theodore**

“While I can’t recall how many years I have taught at the law school, I do know that Jeff has been there each and every one of them. He’s been a big help to me and to my students. He is always accommodating and has the answers to all things IT. He’s a great asset to the College of Law.”

#### **Attorney Steve Oberman**

“Jeff is the guru of all audio-visual equipment at the law school. With the patience of Job, he teaches both teacher and student how to use technology to exhibit demonstrative evidence of all kinds. It is quite obvious he truly cares about the students. He works tirelessly (I am certain he doesn’t sleep) to solve all AV problems, yet never seeks recognition of any kind. We are most fortunate to have him helping us improve the quality of our law school.”

Center for Advocacy & Dispute Resolution  
University of Tennessee College of Law  
1505 West Cumberland Avenue  
Knoxville, TN 37996-1810  
[law.utk.edu/advocacy](http://law.utk.edu/advocacy)

---

## Upcoming Events

### March 8

Jenkins Trial Competition Final Round

### March 9

Summers-Wyatt Symposium  
“Crisis, Coverage, and Communication:  
Advocacy in a 24/7 News World”

### March 14

First-Year Advocacy Competition

### March 31

Blackshear’s Gala with Judge Bernice Donald

### April 25

Advocacy Center Year’s End Collaboration

---

The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution in the provision of its education and employment programs and services. All qualified applicants will receive equal consideration for employment without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, age, physical or mental disability, or covered veteran status. R01-1611-083-008-12. A project of the College of Law with the assistance of UT Creative Communications; 91 Communications Bldg.; Knoxville, TN 37996; 865-974-0765. Rev. 3018



## Director’s Dicta

As spring approaches, we are excited about this year’s Summers-Wyatt Symposium, “Crises, Coverage, and Communication: Advocacy in a 24/7 News World.”

We are again joining forces with the *Tennessee Journal of Law and Policy* to host this timely event focusing on the growing importance of communication skills in light of seemingly never-ending media scrutiny.

The symposium will feature lawyers, journalists and communication experts who will address the topic of legal advocacy as well as legal and journalism ethics in the world of 24/7 news coverage. Noteworthy speakers with legal, media and public relations backgrounds will share their personal and

professional experiences related to media coverage of legal proceedings.

Among the speakers currently confirmed are Jose Baez, who represented Casey Anthony; Pamela Mackey, who represented NBA player Kobe Bryant; Joseph Cheshire, who defended the Duke Lacrosse case; John Seigenthaler, who founded USA Today and the First Amendment Center; former CNN anchor and White House and Capitol Hill correspondent Joie Chen; President and CEO of the Freedom Forum James Duff; ABA Legal Affairs writer Mark Curriden; and Al Tompkins, senior faculty member at the Poynter Institute.

The symposium will take place at the College of Law on March 9 beginning at 8:30 a.m. and concluding at 5 p.m. For more information, visit [law.utk.edu/cle/12247CLE.shtml](http://law.utk.edu/cle/12247CLE.shtml).

We hope to see you then.

A handwritten signature in black ink that reads "Penny White". The signature is fluid and cursive, written over a white background.

Penny White, Director, UT Center for Advocacy and Dispute Resolution